Pz - See letter Arch, Kaffman/Manchester

March 22, 1977

Dear Harold,

It was great to talk to you last night. Enclosed are 2 copies of something I got from the SS in response to my FOIA request. There were other things, which I will send in a little while. But this one is special; consider it a sort of ironic birthday present. I think it could be the basis for a damage suit against Archives and SS for deliberate wrongful withholding of the memo of transfer from you.

As you can see, the record of the meeting was made by your friend, Tom Kelley, prior, I believe, to your meeting with him.

Why don't you read the memo before you read the rest of this letter?

The memo is loaded with important admissions: the displeasure at the panel's "gratuitous" mention of the memo of transfer and how "it would have been so much better" if they'd not mentioned it; the fear that it would "lead to all sorts of speculation" about the government's frankness and about conspiracies; the fear that writers might "dicuss the discrepency"; the decision to let the matter lie because "we were borrowing trouble in exploring it any farther."

But I think you'll agree with me that the most important admission is atop page 2, the fear that you or Lane would ask to see the memo of transfer. (Remember, by this time you had asked Rhoads personnally, in court, for a copy--this is in PM; Rhoads was at this meeting). Note the language describing Van Cleve's reaction: "He indicated that he saw no legal reason how the existence of this inventory could be kept from writers of this kind..."

This, and the whole context in which it was said, is crucial. I interpret it as an admission that there was no legal basis to withhold the memo from you, and they all knew it. Remember the description in PM of how they stalled on your request and finally came up with that nonsense about how the memo was put in the Archives for "safekeeping"?

The one difficulty with the language Kelley uses is that he has Van Cleve saying he sees no legal reason how the existence of the memo could be kept from you. I think it apparent, however, that he means no reason why the memo itself could be kept from you. With the panel report already public, the existence of the memo was known, and at least Rhoads knew you had requested a copy. The context of the discussion at any rate is what would happen if you knew the contents of the memo, so clearly their concern is to keep the memo from you and not merely its existence.

And what a picture of their motives! Not only is there the admission of no legal reason for withholding, which already has them violating the FOIA, but then the reason for their wishing to withhold to spare them embarrassment, to prevent speculation, to deprive conspiracy theorists of grist for their mills. Isn't this exactly the arbitrary type of withholding Congress was striking out at in passing the FOIA? Tell me what follow-up steps you want now, such as an inquiry at the Archives.

Best,

Harold

cc for JL